

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on January 10, 2003 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 130; HB 169; HB 172; HB 72
Executive Action: HB 172; HB 45; HB 182; HB 72

HEARING ON HB 130

Opening Statement by Sponsor: **REP. DAVE LEWIS, HD 55, Helena,** stated this bill with the amendment is a bill that addresses a situation in which an insurance company receives a claim that is in good order; and, providing payment is in a reasonable amount of time, interest on that claim must be paid. He also said some people will say this is an extreme measure which will cause problems for an insurance company. There is no penalty for delaying payment but there is a reward for early payment. This bill therefore is an attempt to address the issue for consumers and providers by trying to get some penalty involved so there will be more prompt payments. He then explained the amendments.

EXHIBIT (buh05a01)

{Tape: 1; Side: A; Approx. Time Counter: 1 - 55}

Proponents' Testimony:

Claudia Clifford, State Auditor's Office, provided testimony from Phoebe Patterson of Missoula. **Ms. Clifford** also talked about the promptness of insurance claims. It will not guarantee that all claims get paid in the time laid out in the bill. But what it will do is give resolution to consumers and to providers to whether an insurance company has decided they should pay the claim right away or whether there is a legitimate reason which they will need to state for not paying the claim. Then the dispute and conversation becomes focused on that reason. In increasing numbers, consumers are tired and frustrated with these delays and claims. A background of the current law was also provided.

EXHIBIT (buh05a02)

EXHIBIT (buh05a03)

{Tape: 1; Side: A; Approx. Time Counter: 35 - 45}

Betty Beverly, Executive Director, Montana Senior Citizens Association explained to the committee her claim of a fire loss.

{Tape: 1; Side: A; Approx. Time Counter: 45 - 257}

Donald Miller, Supervisor of Patient Accounts, St. Patrick Hospital, said large insurers are continuously delinquent (by several months in most cases) on over 100 claims. His request to the insurance commissioner to intercede was returned to them stating that each individual patient must file a complaint as he could not do it on their behalf. He also said this bill is good for consumers, providers and potentially could provide general fund revenue.

EXHIBIT (buh05a04)

{Tape: 1; Side: A; Approx. Time Counter: 257 - 262}

James K. Shelton, Patient Business Services Manager, Benefits Healthcare, said the revision of the Montana laws are very important to his employer. They really depend on timely payment of their claims from all healthcare providers. Companies need cash flow so they can reinvest in new technology, staffing and keep prices low in Montana to provide excellent quality care to patients. Medicare will pay claims between 14 and 20; days, Medicaid, not uncommon, will pay in 14 to 30 days. As this situation is moved up to other health insurers, claims can go up to 3 days or up to 6 months. They use a standard billing form which is acceptable by all payers. There are many reasons for nonpayment.

{Tape: 1; Side: A; Approx. Time Counter: 262 - 426}

Judy Lunceford, Director of Patient Business Service, Kalispell Regional Medical Center, attests to previous testimony. Part of their interest in this bill is to explain that many insurance companies who can pay in a timely manner, do pay in a timely manner.

{Tape: 1; Side: A; Approx. Time Counter: 426 - Tape 1, Side B; 16}

Susan Good, representing **Montana Orthopedic Surgeons and Montana Neurosurgeons**, said when claims are delayed and take too long to process it is a classic case of dollars at work. The dollars at work, not from the people but for the insurers. This causes undue stress on the patients that physicians she represents see on a daily basis. Doctors are small businessmen but they are sometimes a very big employer in their town. Even though payments may be delayed they don't delay paying their employees.

{Tape: 1; Side: B; Approx. Time Counter: 18 - 40}

Pat Melby, Montana Medical Association, said they liked this bill. This bill will put teeth into a prompt-payment law that is currently toothless.

{Tape: 1; Side: B; Approx. Time Counter: 40 - 45}

Janie McCall, Deaconess Billings Clinic, said she was here in support of this bill. She asked that the committee really look at the consumers part of this bill. People need to have peace of mind particularly when they are having issues of this sort.

{Tape: 1; Side: B; Approx. Time Counter: 45 - 52}

Mary Williams, Volunteer, Capital City Task Force of AARP Montana, said her reason for being here is that unreasonable delay in payment by insurance companies do affect all of the people they represent.

{Tape: 1; Side: B; Approx. Time Counter: 52 - 60}

Amy Orser, Helena, said it would be extremely helpful to small businesses' like hers to be paid for their services in the accepted 30 day turnaround instead of needing to wait six months.

EXHIBIT (buh05a05)

{Tape: 1; Side: B; Approx. Time Counter: 60 - 72}

Cort Jensen, Attorney at Law, Montana Office of Consumer Protection, said when insurance companies delay payment, it tends to affect peoples' credit ratings. Therefore a prompt payment law would alleviate the burdens for the people they care for.

{Tape: 1; Side: B; Approx. Time Counter: 72 - 81}

Bob Olson, Montana Healthcare Providers, said he had provided written comments both from Mike Foster of St. Vincent's Healthcare and MHA. He also said when hospital care is given there is very little expectation that consumers pay their bill when they are at the hospital and are walking out the door. The hospital becomes a creditor or bank. Those accounts are accounts receivable. He also provided additional testimony pertaining to this bill. All this bill is doing is putting teeth in the block.

EXHIBIT (buh05a06)

EXHIBIT (buh05a07)

{Tape: 1; Side: B; Approx. Time Counter: 81 - 136}

Opponents' Testimony:

Jacqueline Lenmark, American Insurance Association, said Montana was the only state that also permits and insured or third party claimant to bring a right of action by statute to bring an action against an insurance company for bad faith for failure to comply with 201. In that action the company is liable for actual damages for bad faith and punitive damages. Montana is far ahead of other states in terms of insuring compliance and prompt payment. Consider the negative message that this will send to all commercial insurers. This does not simply affect the payment of your health insurance claims or your auto insurance claims. This will affect medical malpractice insurance and workers' compensation unless the amendment is adopted. It affects all lines of insurance and it will send a message to those companies who want to offer insurance in Montana about the reception they might receive here.

{Tape: 1; Side: B; Approx. Time Counter: 136 - 343}

Sue Weingartner, Alliance of American Insurers, stated they oppose in this bill the removal of the general business test language in section 2 of the bill and to have a single violation be the basis of the administrative enforcement. They also oppose the proposal to serve a penalty upon a single act or admission.

{Tape: 1; Side: B; Approx. Time Counter: 343 - 376}

Greg VanHorssen, State Farm Insurance, said they oppose this bill for redundancy of statutes already on the books. They believe there are substantial penalties and substantial disincentives for companies to purposely and without reason delay payment. The law is clear on this issue. This bill will create another reason to make payments before a full analysis. Penalties of 18% are significant to some of the companies who are operating in this state. The obligation to the insured who bought the policy is a consideration the obligation.

{Tape: 1; Side: B; Approx. Time Counter: 376 - 447}

Dwight Eastman, Farmers Insurance Company, said they rise in opposition for many of the items already discussed. The language of this bill demands that payment must be made within 60 days provided there is no fraud. This is an absolute bill. Due to the nature of insurance claims it is a complex nature and 60 days sometimes can be too short a time to make an accurate decision. In order to look at all the complexity of the claims, they support a do not pass. **{Tape: 1; Side: B; Approx. Time Counter: 447 - 488}**

Larry Jones, Liberty Northwest, stated his company was the largest private workers' compensation carrier in Montana. He indicated he supports this legislation but would oppose the bill as initially drafted. He would have no opposition if the amendment excluding workers' compensation coverage were adopted. **{Tape: 1; Side: B; Approx. Time Counter: 488 - 500}**

Tanya Ask, Blue Cross/Blue Shield of Montana, said she supports the amendment to this bill. They approve of the proof of loss language that the Montana Health Care Association has recommended. She also said that removing the finding of the unfair trade practice as a general course of business is their sole concern. **{Tape: 2; Side: A; Approx. Time Counter: 1 - 4}**

Denise Pizzini, New West Health Services and Montana Benefits and Health Connections, said she had additional concerns with this bill. In regard to health insurers there has been a prompt payment requirement for quite some time. She provided written testimony of her further concerns.

EXHIBIT (buh05a08)

{Tape: 2; Side: A; Approx. Time Counter: 4 - 95}

Frank Cote, Health Insurance Association of America, stated his company had some specific concerns.

{Tape: 2; Side: A; Approx. Time Counter: 95 - 142}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN asked why the insurance company would be opposed to this legislation. **Ms. Lenmark** said the answer was the same for all forms of insurance when you get into a complex insurance claim. Sometimes medical injuries are not resolved for several months. The amount of the claim would be unknown. There are already provisions under Montana law to cover this problem.

{Tape: 2; Side: A; Approx. Time Counter: 142 - 236}

REP. BITNEY asked **Mr. Olson** who the self-pay members are. **Mr. Olson's** response was that they are people who come into the hospital who have no insurance and are required to make arrangements to pay their bills personally. **Mr. Olson** then stated if a person came in with an insurance company and after a period of time the insurance company denied the benefit, the patient then becomes self pay. **REP. BITNEY** asked for the definition of "all other government payers." The answer was: Indian health service, veterans, Champas, and county accounts. **REP. BITNEY** asked if Medicare and Medicaid payments were made more quickly; and the answer was that these two systems were highly computerized. The process is streamlined.

{Tape: 2; Side: A; Approx. Time Counter: 236 - 299}

REP. MENDENHALL asked if the term "penalties" could be described in the law. **Ms. Lenmark** said there are two different sets of penalties. There is an administrative penalty that if an insurer violates the provisions of that statute with such frequency as to become a regular business practice, the State Auditor's Office can then fine the insurer in the amount of \$25,000. **REP.**

MENDENHALL then asked if there were many penalties given; to which **Ms. Grandy** indicated they were very infrequent.

{Tape: 2; Side: A; Approx. Time Counter: 299 - 412}

REP. GALLIK said that several of the opponents have addressed the issue of needing additional information on the "proof of loss" and the "received" language. He asked if the amendment which has been proposed by the State Auditor's Office takes care of the situation. **Mr. Cote** said it helped this situation. He said his concern is that as the bill is currently drafted, it does not totally solve that problem. When seeing the other parts of the bill, if the health insurer asks for that additional information and never receives it, they are still required to pay a fine or deny the claim.

{Tape: 2; Side: A; Approx. Time Counter: 412 - 462}

REP. MAEDJE asked if there was any information that the insurance rates went up after this law was put into effect. **Ms.Clifford** said she did not have that information.

{Tape: 2; Side: A; Approx. Time Counter: 462 - 500}

Closing by Sponsor:

The Sponsor closed.

HEARING ON HB 45

Opening Statement by Sponsor:

REP. BOB LAWSON, HD 80, Whitefish, said the bill is being introduced by the Department of Administration regarding escrow business accounts. The bill was developed regarding problems discovered in the on-going regulation of Montana escrow businesses. He then explained the changes in the bill.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 80}

Proponents' Testimony:

SEN. JOHN ESP, SD 13, Big Timber, said he supports this bill. This bill is in response to an incident that happened to some of his constituents and in his opinion it is a needed change in the law. He asked to consider the amendments that would allow more flexibility.

{Tape: 2; Side: B; Approx. Time Counter: 80 - 83}

Annie Goodwin, Commissioner of Banking and Financial Institutions, said they oversee escrow companies in Montana. This bill stems from an escrow company that the state placed under court-ordered receivership. The state received a complaint from a business in Livingston. It appeared that some payments from this escrow company had been credited to the wrong company. Upon the state's investigation into the company, it was learned that over \$239,000 was missing from a trust account. That trust account was established for the payment of a contract for deeds. Another \$30,000 was missing from a reserve account. This bill offers protections. She then supplied an exhibit that would outline this bill and the need for the bond as well as the need for the disbursement to be made within five days. A copy of the amendments they propose were also distributed.

{Tape: 2; Side: B; Approx. Time Counter: 83 - 145}

Cort Jensen, Office of Consumer Protection, said the bond would be a very good idea and he supports this bill.

{Tape: 2; Side: B; Approx. Time Counter: 145 - 159}

Cyndy Rigler, Western Home Mortgage Corporation, Livingston, said there needs to be some protection.

{Tape: 2; Side: B; Approx. Time Counter: 159 - 211}

REP. PAT WAGNER, HD 26, Livingston, said he encouraged the committee support and a do pass of this bill. He said that it is hard to believe that in the year 2003 someone can actually do a transaction with an escrow company and find out that after the property sold, the funds are gone and the only recourse you would have is a civil suit against the owner which may or may not have any assets to go after someone in a civil court.

{Tape: 2; Side: B; Approx. Time Counter: 211 - 231}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BITNEY questioned the current fee. **Ms. Goodwin** said the current fee is \$350. He then asked that in the case of an escrow account where the money is disputed, how the case would be handled in this instance. **Ms. Goodwin** said that it is an earnest money matter, most likely it would involve a real estate agent and real estate agents are specifically exempt from the escrow act. That topic would be governed by the escrow agreement between the parties. **REP. BITNEY** asked for an explanation of how the bond works. **Ms. Goodwin** said research had been done in Montana with some of the insurance carriers. They have gotten a preliminary cloak that addresses an employee dishonesty bond for up to \$100,000 and the business has five or less employees. The premium would be \$326.00 per year. The bond would be administered by her agency in the event funds are missing.

{Tape: 2; Side: B; Approx. Time Counter: 231 - 259}

REP. BOOKOUT-REINICKE asked if the titles companies currently regulated now. **Ms. Goodwin** said they were exempt from the escrow act but are regulated by the insurance commissioners office. The escrow companies that are currently operating would not be grandfathered in; they would be required to obtain the bonds. There is not prohibition under Montana law.

{Tape: 2; Side: B; Approx. Time Counter: 259 - 306}

REP. MAEDJE asked what the thinking was behind an increase or decrease in the amount for individual companies based on their business amount they would typically do. **Ms. Goodwin** said the thought process would be that the department would look at the

volume of business. If it was a larger company then the bond amount would become commensurate with volume of business.

{Tape: 2; Side: B; Approx. Time Counter: 307 - 356}

CHAIRMAN MCKENNEY said he was a business owner and he had employee dishonesty insurance on his employees. He owns the business and he could not get that insurance on himself because he is not supposed to steal from himself. **Ms. Goodwin** said when they had done their review of what a premium would potentially cost for this \$100,000, the employee dishonesty bond will cover acts of theft, or taking of money from his business by an employee. This would not be the typical bond that would be required for an escrow. There is no requirement that escrow companies be bonded. ***{Tape: 2; Side: B; Approx. Time Counter: 356 - Tape: 3; Side: A/ Approx. Time Counter: 65}***

Closing by Sponsor:

The Sponsor closed.

HEARING ON HB 169

Opening Statement by Sponsor:

REP. JIM KEANE, HD 36, Butte, said that he is a candidate for the driest bill of the session. This bill does four things even though it has 25 pages. It provides uniform reciprocity with other states, proves access for licenses from other states for Montana producers and it changes an annual fee to a 24-month renewal cycle. It also allows persons holding licenses to put their license in a inactive status if they are in the military and requires the examination of independent adjusters.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 6}

Proponents' Testimony:

Jill Guardroom, Commissioner of Insurance and Security, State Auditor's Office, submitted a summary sheet of the bill with proposed amendments as well as spreadsheet which outlines the fees.

EXHIBIT (buh05a09)

EXHIBIT (buh05a10)

{Tape: 3; Side: A; Approx. Time Counter: 6 - 85}

Roger McGlenn, Executive Director, Independent Insurance Agents of Montana, said they stand in support of the bill with the amendments.

{Tape: 3; Side: A; Approx. Time Counter: 87 - 178}

Don Alan, Montana Association of Insurance & Financial Advisers said he seconded everything in the previous testimony. This bill will bring uniformity. When background checks are necessary, there has been some interesting discussion about that.

{Tape: 3; Side: A; Approx. Time Counter: 179 - 236}

Mark Nelson, Helena citizen, said he favored the bill. It will take some of the weight off the shoulders from the department that is understaffed and overworked.

{Tape: 3; Side: A; Approx. Time Counter: 236 - 251}

Sue Wiengartner, Alliance of American Insurers, said they appreciate the commissioners' efforts to bring Montana standards in uniformity with the majority of other states. She said she had suggested amendments. She then explained her amendments.

{Tape: 3; Side: A; Approx. Time Counter: 252 - 300}

Kelly Reisbeck, Montana Bail Agents Association, said his organization consisted of approximately 70% of all bail agents in Montana. He said the changes which will take place will be helpful in having a more professional image for his industry and also help through the background checks and continuing education.

{Tape: 3; Side: A; Approx. Time Counter: 301 - 322}

Jacqueline Lenmark, American Insurance Association and the American Counsel of Life Insurers, support any efforts of the states to move towards uniform licensing for the insurance producers that are appointed with their member companies.

{Tape: 3; Side: A; Approx. Time Counter: 322 - 413}

Greg Van Horssen, State Farm Insurance Company, said State Farm appreciates this move for uniformity. Any effort to achieve this across the states is appreciated.

{Tape: 3; Side: A; Approx. Time Counter: 413 - 430}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. GALLIK asked Ms. Guardroom if increasing the non-resident fee from \$10.00 to \$50.00 was because it cost \$10.00 to process a check. He asked how much it costs to process a resident license. **Ms. Guardroom** replied it cost the same.

REP. ROME asked **Ms. Lenmark** asked how the bail bondsmen were regulated now and how would this bill change that. **Ms. Lenmark** said they were currently regulated under the insurance code.

{Tape: 3; Side: B; Approx. Time Counter: 1 - 31}

Closing by Sponsor:

The Sponsor closed.

CHAIRMAN McKENNEY turned the meeting over to **VICE-CHAIRMAN STEINBEISSER**.

HEARING ON HB 172

Opening Statement by Sponsor:

REP. DAVE GALLIK, HD 52, explained what happens in the State of Montana when we issue bonds, we need to go back and validate those bonds. The law says we can't validate those bonds prospectively so the legislature cannot validate a bond that will be issued between now and the next legislative session.

{Tape: 3; Side: B; Approx. Time Counter: 60 - 70}

Proponents' Testimony:

Kathy Muri, Department of Administration said from a legal standpoint, bond validation cannot occur before the bonds have been issued. This why it is necessary to have the legislature validate the bonds when it meets from the date of the last act to the current date.

EXHIBIT (buh05a11)

{Tape: 3; Side: B; Approx. Time Counter: 72 - 94}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. BOOKOUT-REINICKE asked Kathy Mari if this bill affects the States' credit rating. She answered that if this bill did not pass and there was an irregularity in a bond, the bond would fail and the bond holders would not be able to collect and would affect the credit rating.

{Tape: 3; Side: B; Approx. Time Counter: 103 - 133}

Closing by Sponsor:

The Sponsor closed.

HEARING ON HB 72

Opening Statement by Sponsor:

REP. SCOTT MENDENHALL, HD 39, Cardwell, said this bill was by request of the unemployment insurance. He then explained the changes in the bill.

{Tape: 3; Side: B; Approx. Time Counter: 133 - 194}

Proponents' Testimony:

Keith Kelly, Unemployment Division, Department of Labor & Industry, said these were simply some housekeeping efforts of the staff especially the unemployment division.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor: None

EXECUTIVE ACTION ON HB 172

{Tape: 3; Side: B; Approx. Time Counter: 265 - 269}

Motion/Vote: REP. GALLIK moved that HB 172 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 45

{Tape: 3; Side: B; Approx. Time Counter: 270 - 333}

Motion: REP. LAWSON moved HB 45 DO PASS.

Discussion: Mr. Campbell, LFA explained the amendments as did REP. LAWSON.

Motion: REP. LAWSON moved that HB 45 BE AMENDED.

Vote: Motion carried unanimously.

Motion/Vote: REP. LAWSON moved HB 45 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 182

{Tape: 3; Side: B; Approx. Time Counter: 333 - 500}

Motion: REP. ROME moved HB 182 DO PASS.

Motion: REP. KEANE moved AMENDMENTS TO HB 182.

Discussion:

Mr. Campbell explained the amendments.

REP. MATTHEWS said he opposed the amendments.

REPS. KEANE, MENDENHALL, GALLIK, FRITZ, ROME, GALVIN-HALCRO, MENDENHALL, KEANE, CHAIRMAN MCKENNEY spoke on the amendments.

Substitute Motion/Vote: REP. ROME moved AMENDMENTS TO HB 182 DO PASS. Motion carried 14-4, REPS. KEANE, BERGREN, BITNEY and WILSON voting no.

Motion/Vote: REP. MENDENHALL moved SECOND SET OF AMENDMENTS DO PASS. Motion carried unanimously.

Motion/Vote: REP. MENDENHALL moved DO PASS AS AMENDED. Motion carried 14-4 with REPS. KEANE, WILSON, GALVIN-HALCRO and WEISS voting no.

ADJOURNMENT

Adjournment: 11:45 A.M.

REP. JOE MCKENNEY, Chairman

ALBERTA STRACHAN, Secretary

JM/AS

EXHIBIT (buh05aad)